

## 1 UNITED STATES DISTRICT COURT

## 2 DISTRICT OF NEVADA

3 TONY ALLEN PRESSLER,

Case No. 3:19-cv-00163-MMD-CLB

4 Plaintiff

ORDER

5 v.

6 ELKO COUNTY JAIL, et al.,

7 Defendants

9 This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. §  
 10 1983 by an incarcerated individual. On April 22, 2020, the Court issued an order  
 11 dismissing the complaint with leave to amend and directed Plaintiff to file a complete  
 12 amended complaint within thirty days. (ECF No. 7.) The Court's order stated that if  
 13 Plaintiff did not file an amended complaint within 30 days, this action would be dismissed  
 14 with prejudice for failure to state a claim. (*Id.* at 10.) On May 18, 2020, Plaintiff filed the  
 15 first page of an amended complaint. (ECF No. 9.) Nothing more has been filed, and the  
 16 thirty-day period has now expired. It is not clear why Plaintiff filed only a single page and  
 17 whether this was intentional or an accidental oversight in filing the amended complaint.  
 18 As such, the Court will extend Plaintiff's deadline for filing a fully complete first amended  
 19 complaint for 30 days from the date of this order. If Plaintiff chooses not to file a complete  
 20 first amended complaint this action will be dismissed with prejudice for failure to state a  
 21 claim.

22 As the Court previously informed Plaintiff, If Plaintiff chooses to file an amended  
 23 complaint, he is advised that an amended complaint supersedes (replaces) the original  
 24 complaint and, thus, the amended complaint must be complete in itself. See *Hal Roach*  
 25 *Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding  
 26 that “[t]he fact that a party was named in the original complaint is irrelevant; an amended  
 27 pleading supersedes the original”); see also *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928  
 28 (9th Cir. 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required

1 to reallege such claims in a subsequent amended complaint to preserve them for appeal).  
2 Plaintiff's amended complaint must contain all claims, defendants, and factual allegations  
3 that Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff should file the amended  
4 complaint on this Court's approved prisoner civil rights form, and it must be entitled "First  
5 Amended Complaint."

6 It is therefore ordered that, if Plaintiff chooses to file an amended complaint,  
7 Plaintiff will file the amended complaint within 30 days from the date of entry of this order.

8 It is further ordered that the Clerk of the Court will send to Plaintiff the approved  
9 form for filing a § 1983 complaint, instructions for the same, and a copy of his original  
10 complaint (ECF No. 1-1). If Plaintiff chooses to file an amended complaint, he should use  
11 the approved form and he will write the words "First Amended" above the words "Civil  
12 Rights Complaint" in the caption.

13 It is further ordered that, if Plaintiff fails to file an amended complaint curing the  
14 deficiencies outlined in the screening order, this action will be dismissed with prejudice  
15 for failure to state a claim.

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17 DATED THIS 26th day of May 2020.



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19 UNITED STATES MAGISTRATE JUDGE  
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